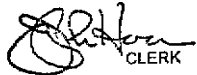


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
NOV 18 2004  
  
CLERK

\*\*\*\*\*

JERRY W. BENDER,

CIV 01-4151

Plaintiff,

vs.

DONEEN HOLLINGSWORTH, South  
Dakota Secretary of State, in  
her individual and official capacities;  
JEFFREY BLOOMBERG, Secretary,  
Department of Corrections, in his  
individual and official capacities;  
DOUGLAS L. WEBER, Warden,  
South Dakota State Penitentiary, in his  
individual and official capacities;  
OWEN SPURRELL, Associate Warden,  
South Dakota State Penitentiary, in his  
individual and official capacities;  
ROBERT DOOLEY, Warden, Mike  
Durfee State Prison, in his official  
capacity; EUGENE REGIER, M.D.,  
in his individual and official capacities;  
SIOUX VALLEY HOSPITAL; KELLY  
PICKNER, Officer, Mike Durfee State  
Prison, in her individual capacity;  
TAMMY DOYLE, Officer, Mike Durfee  
State Prison, in her individual capacity;  
DOUG WYNIA, Counselor, Mike Durfee  
State Prison, in his individual capacity;  
BOB KURLY, Counselor, Mike Durfee  
State Prison, in his individual capacity;  
KAY WILKA, Nursing Director, in her  
individual capacity; KEVAN MERVERN,  
Case Manager, Mike Durfee State Prison,  
in his individual capacity; DARYL  
SLYKHUIS, Assistant Warden, Mike  
Durfee State Prison, in his individual

JUDGMENT

capacity; TROY PONTO, Unit Manager, \*  
Mike Durfee State Prison, in his \*  
individual capacity; and AMY \*  
BIRTHALSON, Unit Manager, \*  
Mike Durfee State Prison, in her \*  
individual capacity; GREG ZIKES, \*  
Physician's Assistant, in his individual \*  
and official capacities; KAY PAA, Nurse, \*  
in her individual and official capacities; \*  
RHONDA MILLER, Nurse, in her \*  
individual and official capacities; and \*  
and OTHER UNKNOWN STATE \*  
PERSONNEL, in their individual \*  
and official capacities, \*  
\*  
Defendants. \*

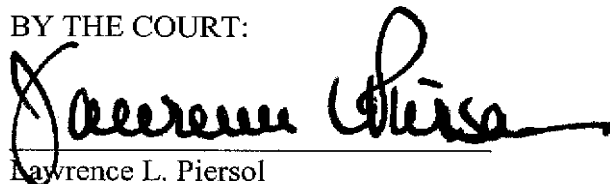
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In accordance with the Court's Memorandum Opinion and Order, Doc. 89, dated September 29, 2003, and with the Eighth Circuit Court of Appeals' decision in *Bender v. Regier*, Slip Op. No. 03-3529 (8<sup>th</sup> Cir. October 1, 2004) and the mandate filed November 17, 2004, reversing paragraph three of the Court's Memorandum Opinion and Order, Doc. 89,

IT IS ORDERED, ADJUDGED, and DECREED that judgment is entered in favor of all Defendants and against Plaintiff, Jerry Bender, on all of the claims in Plaintiff's Complaint.

Dated this 18<sup>th</sup> day of November, 2004.

BY THE COURT:

  
Lawrence L. Piersol  
Chief Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Shelly Margulies  
DEPUTY